

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 408, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between lines 6 and 7, begin a new paragraph and insert:
- 2 "SECTION 2. IC 13-11-2-25.7 IS ADDED TO THE INDIANA
- 3 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2001]: Sec. 25.7. "Claimant", as used in
- 5 IC 13-23-8 and IC 13-23-9, refers to a person that submits a claim
- 6 under IC 13-23-8-1."
- 7 Page 2, line 24, after "liability" insert "trust".
- 8 Page 3, line 25, after "the" insert "underground storage tank".
- 9 Page 3, line 27, after "liability" insert "trust".
- 10 Page 3, line 27, after "fund," insert "to pay claims submitted to the
- 11 department".
- 12 Page 3, line 28, strike "of a part".
- 13 Page 3, line 28, after "IC 13-23-9-2" insert ",".
- 14 Page 3, strike line 29.
- 15 Page 3, line 30, strike "petroleum storage tanks,".
- 16 Page 3, line 30, delete "persons designated by eligible owners".
- 17 Page 3, delete lines 31 through 32.
- 18 Page 3, line 33, delete "eligible owners and operators,".
- 19 Page 4, line 4, strike "the part of the liability of an owner or".
- 20 Page 4, strike line 5.
- 21 Page 4, line 6, strike "under".

- 1 Page 4, line 6, after "1(3)" insert **"payments under"**.
- 2 Page 4, line 6, strike "is determined in".
- 3 Page 4, strike lines 7 through 15.
- 4 Page 4, line 16, strike "liability." and insert **"may not exceed two**
- 5 **million dollars (\$2,000,000) per occurrence for which claims are**
- 6 **made under this chapter."**.
- 7 Page 4, line 21, strike "event" and insert **"occurrence"**.
- 8 Page 4, line 21, strike "a claim is" and insert **"claims are"**.
- 9 Page 4, line 25, strike "and".
- 10 Page 4, delete line 28.
- 11 Page 4, line 38, strike "event" and insert **"occurrence"**.
- 12 Page 4, line 38, strike "a claim is" and insert **"claims are"**.
- 13 Page 4, line 42, strike "and".
- 14 Page 5, delete line 3.
- 15 Page 5, line 12, strike "event" and insert **"occurrence"**.
- 16 Page 5, line 12, strike "a claim is" and insert **"claims are"**.
- 17 Page 5, line 16, strike "and".
- 18 Page 5, delete line 19.
- 19 Page 5, line 30, delete ", a person designated by an eligible".
- 20 Page 5, delete lines 31 through 32.
- 21 Page 5, line 33, delete "eligible owner or operator".
- 22 Page 5, line 34, after "liability" insert **"trust"**.
- 23 Page 6, line 16, strike "owner or operator, or an agent of the owner
- 24 or".
- 25 Page 6, line 17, strike "operator," and insert **"plan"**.
- 26 Page 6, line 23, reset in roman "cleanup guidelines set forth in the".
- 27 Page 6, reset in roman line 24.
- 28 Page 6, line 25, reset in roman "including the department's".
- 29 Page 6, line 25, strike "risk-based collective action plan" and insert
- 30 **"risk integrated system of closure"**.
- 31 Page 6, line 26, before "when" delete "standards" and insert
- 32 "standards;".
- 33 Page 6, line 26, strike "when the standards become effective;".
- 34 Page 6, line 31, after "a" insert **"corrective action"**.
- 35 Page 6, line 31, strike "an owner or operator" and insert **"the**
- 36 **claimant"**.
- 37 Page 6, line 32, after "supplement the" strike "corrective action".
- 38 Page 6, line 35, strike "an owner's or".
- 39 Page 6, line 36, strike "operator's" and insert **"the"**.
- 40 Page 6, line 38, after "control." insert **"For purposes of this**
- 41 **subdivision, in the event of a conflict between compliance with the**
- 42 **corrective action plan and the board's rules, the board's rules**

- 1 **control."**
- 2 Page 6, line 42, after "owner" insert ",."
- 3 Page 6, line 42, strike "or".
- 4 Page 6, line 42, after "operator" insert ", **or transferee of property**
- 5 **under subsection (e)".**
- 6 Page 7, line 1, after "owner" insert ",."
- 7 Page 7, line 1, strike "or".
- 8 Page 7, line 1, after "operator" insert ", **or transferee".**
- 9 Page 7, line 4, strike "immediate removal in" and insert "**initial**".
- 10 Page 7, line 9, delete "329 IAC 9-5-5.1" and insert "**329 IAC 9-5**".
- 11 Page 7, line 16, after "owner" insert ",."
- 12 Page 7, line 16, strike "or".
- 13 Page 7, line 16, after "operator" insert ", **or transferee of property**
- 14 **under subsection (e)".**
- 15 Page 7, between lines 18 and 19, begin a new paragraph and insert:
- 16 **"(d) An owner, an operator, or a transferee of property**
- 17 **described in subsection (e) eligible to receive money from the fund**
- 18 **under this section may assign that right to another person.**
- 19 **(e) A transferee of property upon which a tank was located is**
- 20 **eligible to receive money from the fund under this section if the**
- 21 **transferor of the property was eligible to receive money under this**
- 22 **section with respect to the property."**
- 23 Page 7, line 23, strike "To".
- 24 Page 7, line 23, delete "establish" and insert "Establish".
- 25 Page 7, line 31, strike "To".
- 26 Page 7, line 31, delete "determine" and insert "Determine".
- 27 Page 8, line 2, after "liability" insert "**trust**".
- 28 Page 8, line 3, after "under" insert "**section 1 of**".
- 29 Page 8, line 9, after "liability" insert "**trust**".
- 30 Page 8, line 13, strike "owner or operator" and insert "**claimant**".
- 31 Page 8, line 14, strike "owner's or operator's".
- 32 Page 8, line 16, strike "owner or operator" and insert "**claimant**".
- 33 Page 8, line 16, after "liability" insert "**trust**".
- 34 Page 8, line 23, after "section 1(2)" insert "**section 1**".
- 35 Page 8, line 23, reset in roman "of".
- 36 Page 8, line 24, strike "owner or operator of an underground".
- 37 Page 8, line 25, strike "petroleum storage tank." and insert
- 38 **"claimant."**
- 39 Page 8, line 25, strike "an owner or".
- 40 Page 8, line 26, strike "operator of an underground petroleum
- 41 storage tank" and insert "**a claimant**".
- 42 Page 8, line 32, after "Sec. 8." insert "**(a)**".

- 1 Page 8, line 33, reset in roman "of:".
- 2 Page 8, reset in roman line 34.
- 3 Page 8, line 35, reset in roman "storage tanks".
- 4 Page 8, line 35, delete "four" and insert "**two**".
- 5 Page 8, line 36, delete "(\$4,000,000)" and insert "**(\$2,000,000)**".
- 6 Page 8, line 37, delete "." and insert ";".
- 7 Page 8, line37, reset in roman "and".
- 8 Page 8, reset in roman line 38.
- 9 Page 8, line 39, reset in roman "not receive more than".
- 10 Page 8, line 39, after "two" insert "**three**".
- 11 Page 8, line 39, reset in roman "million dollars".
- 12 Page 8, line 39, after "(\$2,000,000)" insert "**(\$3,000,000)**".
- 13 Page 8, line 39, reset in roman "from the".
- 14 Page 8, reset in roman line 40.
- 15 Page 8, between lines 40 and 41, begin a new paragraph and insert:
- 16 **"(b) If the right to receive money from the fund under this**
- 17 **chapter is assigned as described in section 4(d) of this chapter, the**
- 18 **combined amount of money received by the assignor and the**
- 19 **assignee from the excess liability trust fund during a year may not**
- 20 **exceed the limits established in subsection (a).**
- 21 SECTION 14. IC 13-23-9-1 IS AMENDED TO READ AS
- 22 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. The administrator of
- 23 the excess liability trust fund shall process, approve, and deny requests
- 24 made for payments from the excess liability **trust** fund under sections
- 25 2 and 3 of this chapter.
- 26 SECTION 15. IC 13-23-9-2 IS AMENDED TO READ AS
- 27 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) To receive money
- 28 from the excess liability trust fund under IC 13-23-8-1(1), ~~an owner or~~
- 29 ~~operator~~ **a claimant** must:
- 30 (1) submit a corrective action plan to the administrator of the
- 31 excess liability trust fund for the administrator's approval; and
- 32 (2) submit a copy of a work receipt for work that has been
- 33 performed.
- 34 (b) If, after receiving a corrective action plan and a work receipt
- 35 under subsection (a), the administrator determines that:
- 36 (1) the corrective action plan may be approved and that the work
- 37 that has been performed is consistent with the approved corrective
- 38 action plan;
- 39 (2) the work or part of the work that has been performed is
- 40 reasonable and cost effective;
- 41 (3) the work that has been performed concerns the elimination or
- 42 mitigation of a release of petroleum from an underground storage

1 tank including:

- 2 (A) release investigation;
- 3 (B) mitigation of fire and safety hazards;
- 4 (C) tank removal;
- 5 (D) soil remediation; or
- 6 (E) ground water remediation and monitoring; and

7 (4) the ~~owner or operator~~ **claimant** is in compliance with the
 8 requirements of this article and the rules adopted under this
 9 article;

10 the administrator shall approve the request for money to be paid from
 11 the excess liability trust fund for work that has been performed.

12 (c) The administrator shall develop criteria for determining the cost
 13 effectiveness of corrective action. Although not required for payment
 14 from the excess liability trust fund, ~~an owner or operator~~ **a claimant**
 15 may seek pre-approval from the administrator stating that the work to
 16 be performed is reasonable and cost effective.

17 (d) The administrator shall notify the ~~owner or operator~~ **claimant** of
 18 an approval or a denial of a request made under subsection (b) not later
 19 than sixty (60) days after receiving the request. Except as provided in
 20 subsection (f), the administrator shall notify the ~~owner or operator~~
 21 **claimant** of all reasons for a denial or partial denial.

22 (e) Not later than seven (7) days after a request is approved by the
 23 administrator under subsection (b) for the reimbursement of costs for
 24 corrective action, the administrator shall forward a copy of a request
 25 approved under this section to the auditor of state.

26 (f) Not later than thirty (30) days after receiving an approved
 27 request under this section, the auditor of state shall pay ~~to the~~
 28 ~~contractor or to the owner or operator who~~ **claimant that** submitted the
 29 approved work receipt the approved amount from money available in
 30 the excess liability trust fund.

31 (g) If a reason the administrator denies a request made under
 32 subsection (b) is for failure to meet the requirements of subsection
 33 (b)(1), the administrator shall notify the ~~owner or operator~~ **claimant** in
 34 writing not later than sixty (60) days after receiving the request. The
 35 ~~owner or operator~~ **claimant** has thirty (30) days from the receipt of the
 36 denial to notify the administrator of the ~~owner's or operator's~~
 37 **claimant's** intention to appeal the denial. If the ~~owner or operator~~
 38 **claimant** does not notify the administrator of an intention to appeal in
 39 the time provided, further review of the application is not required. If
 40 an intention to appeal is submitted within the time provided, the
 41 administrator has thirty (30) days after the receipt of the notice of the
 42 intention to appeal to provide the ~~owner or operator~~ **claimant** with all

- 1 additional reasons for the denial or partial denial of the request or to
 - 2 specify that all reasons have been provided. The ~~owner or operator~~
 - 3 **claimant** has thirty (30) days after receiving notification from the
 - 4 administrator of all additional reasons for the denial or partial denial or
 - 5 notice specifying that all reasons have been provided to file a petition
 - 6 for review of the denial or partial denial."
 - 7 Page 9, line 2, delete "IC 13-23-8-1(2)".
 - 8 Page 9, line 2, strike "an owner or operator" and insert
 - 9 **"IC 13-23-8-1(2), a claimant"**.
 - 10 Page 9, line 10, strike "owner or".
 - 11 Page 9, line 11, strike "operator" and insert **"claimant"**.
 - 12 Page 9, line 16, strike "owner or operator;" and insert **"claimant;"**.
 - 13 Page 9, line 17, strike "owner or operator" and insert **"claimant"**.
 - 14 Page 9, line 20, strike "owner or operator" and insert **"claimant"**.
 - 15 Page 9, line 24, strike "this section" and insert **"subsection (a)"**.
 - 16 Page 9, line 30, strike "owner or".
 - 17 Page 9, line 31, strike "operator who" and insert **"claimant that"**.
 - 18 Page 9, line 34, strike "owner or operator" and insert **"claimant"**.
 - 19 Page 11, line 15, delete "IC 13-11-2-22" and insert
 - 20 **"IC 13-11-2-229"**.
 - 21 Renumber all SECTIONS consecutively.
- (Reference is to SB 408 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 7, Nays 0.

Senator Gard, Chairperson